

REMARKS

Applicant has carefully reviewed the Official Action dated October 28, 2004 for the above identified patent application.

Independent Claims 1, 11, and 18 were pending in this patent application. Independent Claim 1 has been cancelled, without prejudice.

New independent Claim 21, which corresponds to independent Claim 11 but is directed to a combination of a ladder and ladder extension, has been added. Dependent Claims 2 - 10 have been revised to depend directly or indirectly from independent Claim 21.

No fee for independent Claim 21 is enclosed since the cost of this claim is offset by the cancellation of Claim 1.

At page 2 of the Official Action, Claims 11 - 20 have been rejected under 35 U.S.C. Section 112, second paragraph as being indefinite. The basis for this rejection is that although the preamble of the claims state that only the extension is being claimed, the Examiner contends that the limitations with respect to the conventional ladder render the claims indefinite. Applicant respectfully disagrees with this basis for formal rejection. On the contrary, it is necessary to recite features of a conventional ladder for the purpose of clearly defining the

operating environment of the extension ladder and the functional relationship between the extension ladder and the conventional ladder to which the extension is mountable. As such, Applicant respectfully submits that the inferential recitation of features of a conventional ladder do not render the claim indefinite because they are necessary to properly claim the ladder extension. Therefore Claims 11 - 20, which are directed to the ladder extension, are not indefinite. On the contrary, Applicant submits that Claims 11 - 20 would be indefinite if the features of the conventional ladder were not recited, at least inferentially, in these claims.

The formal grounds of rejection also specifically refer to dependent Claim 12, questioning how this claim can depend from independent Claim 11. Dependent Claim 12 recites that the sidewalls of the ladder extension abut against the sidewalls of a conventional ladder. This embodiment, which is disclosed in the specification and illustrated in the drawings, is possible since the width of the extension ladder can be selected such that the inner sides of the opposed sidewalls of the extension ladder abut against the outer sides of the sidewalls of the conventional ladder to which the ladder extension is mounted. Applicant submits that there is no inconsistency between the recitations in independent Claim 11 and those in dependent Claim 12.

Independent Claims 1, 11 and 18 were pending in this application. Independent Claim 1 has been cancelled, without

prejudice. Therefore, the only independent claims currently pending in this application are Claims 11 and 18.

In the Official Action, Claims 11 and 18 have been rejected as being anticipated under 35 U.S.C. Section 102(b) by U.S. Pat. No. 1,672,020 (Brugner), and have also been rejected as being anticipated by GB 2118236 (Lee). Applicant respectfully disagrees with these grounds of prior art rejection.

Both independent Claims 11 and 18 are directed to ladder extensions. On the contrary, the Lee patent discloses only an attachment to a ladder for stabilizing the ladder for preventing lateral sway of the ladder, and does not teach or suggest an extension for a ladder as disclosed by Applicant and defined by independent Claims 11 and 18. See, for example, Figure 1 of the Lee drawing illustrating the ladder attachment 10 in its operating position attached to a ladder 30. It is clear that the ladder attachment 10 does not provide, and is not intended to provide, an extension for the ladder 30.

Independent Claims 11 and 18 expressly recite that the claimed ladder extension has a width which is greater than the width of a conventional ladder to which the extension is attached. This feature of the invention is discussed in Applicant's original disclosure at page 10 as follows:

"...Preferably, the width of the extension section 2 will be slightly greater than the upper extension of the ladder section 14 so that the inner surfaces of the sidewalls 4 and 6 of the extension section 2 are close to, or abut against, the outer surfaces of the opposed sidewalls of the extended ladder section 14. In this manner, lateral movement of the extension section 2 relative to the extended ladder section 14 is either minimized or eliminated..."

Therefore, it is an important feature of Applicant's invention that the width of the ladder extension be greater than the width of the conventional ladder to which it is attached. On the contrary, the Brugner patent expressly discloses that the ladder extension 29 is slightly narrower than the ladder section 2, exactly opposite to that disclosed and claimed by Applicant. (See page 2, lines 83 - 86 of the Brugner specification). The Brugner patent does not teach or suggest the feature of Applicant's invention in which the width of the extended section of the ladder is slightly greater than the width of the conventional ladder to which it is attached, or the specific advantages resulting from that functional relationship as disclosed in Applicant's specification.

It is axiomatic that the rejection of a claim as being anticipated by a prior art reference requires the Patent & Trademark Office to establish a strict identity of invention between the applied reference and the rejected claim. Stated in other words, a rejection of a claim as being anticipated by a prior art reference is improper unless the reference discloses

all features of the claim, as arranged in the claim. See, for example, Connell v. Sears, Roebuck & Co., 220 USPQ 193 (Fed. Cir. 1983).

It is clear from the above discussion that neither the Brugner patent or the British (Lee) patent anticipates (or suggests) the features of independent Claims 11 and 18. As noted above, the Lee patent does not teach or suggest a ladder extension, the subject matter to which the claims are directed, while the Brugner patent teaches a relationship between a ladder extension and a conventional ladder which is exactly opposite to that defined by independent Claims 11 and 18.

Applicant respectfully submits that the references applied to reject independent Claims 11 and 18 do not teach or suggest the inventions defined by those claims when the applied prior art references are considered in their entireties, including the contrary teachings advocated by the prior art.

Applicant respectfully submits that independent Claims 11 and 18 are allowable over the prior art applied in the Official Action. Claims 12 - 17 and 19 - 20, which depend directly or indirectly from either independent Claim 11 or independent Claim 18, are allowable at least for the same reasons as their respective parent independent claims.

Applicant therefore respectfully submits that all pending Claims 2 - 21 are in condition for allowance, and favorable action is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mark P. Stone".

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